

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

I.T.R. No.125 of 1990

Date of Decision:07.05.2007

The Commissioner of Income-tax, Amritsar

.....Petitioner

Vs.

M/s Gaja Nand Dalmia & Sons, 12, Lawrence Road, Amritsar

.....Respondent

**CORAM:- HON'BLE MR. JUSTICE M.M.KUMAR
HON'BLE MR. JUSTICE RAJESH BINDAL**

Present:- Mr. Sanjiv Bansal, Advocate for the petitioner- revenue.

Ms. Radhika Suri, Advocate for the respondent.

Rajesh Bindal, J.

The following question of law has been referred for opinion of this Court by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar (for short, 'the Tribunal') arising out of order passed by it in I.T.A. No.204 (ASR)/1987 dated 30.6.1989, for the assessment year 1982-83:-

“Whether on the facts, the Income-tax Appellate Tribunal has been right in law in holding that the cost of bonus shares was to be taken on the basis of average of cost of original shares and bonus shares by dividing the actual cost of original acquisition and the cost of subsequent acquisition by total number of shares held by the purchase of original shares, bonus shares and right shares for working out the capital gain under section 55 of the Income-tax Act, 1961?”

Much facts are not required to be noticed as the same are evident even from the question of law referred for opinion of this Court. The issue is as to how the cost of bonus shares is to be determined for the purpose of calculation of capital gain arising out of sale thereof. The Tribunal, while rejecting the plea raised by the revenue challenging the order passed by Appellate Assistant Commissioner of Income Tax, had relied upon judgment of Hon'ble the Supreme Court in **Commissioner of**

Income Tax, Bihar v. Dalmia Investment Co. Ltd., (1964) 52 ITR 567 and Delhi High Court in **Escorts Farms (Ramgarh) Ltd. v. Commissioner of Income Tax, New Delhi**, (1983) 143 ITR 749 wherein it was held that the cost of bonus shares is to be determined by spreading over the cost of old shares over old and bonus shares. We find that the matter in **Escorts Farms (Ramgarh) Ltd.'s case (supra)**, as decided by Delhi High Court, was subject-matter of appeal before Hon'ble the Supreme Court wherein it was held that the Tribunal therein was justified in determining the cost of acquisition of the original shares by spreading over the same in original and bonus shares and then averaging the same and on that basis work out the capital gain. In the present case also, the same principle has been applied by the Tribunal. The judgment of Hon'ble the Supreme Court in **Escorts Farms (Ramgarh) Ltd. v. Commissioner of Income-Tax**, (1996) 222 ITR 509 was subsequently followed in **Master Sumanth Ramanujam and another v. Commissioner of Income Tax**, (2001) 248 ITR 818.

Accordingly, following the dictum of law laid down by Supreme Court in **Escorts Farms (Ramgarh) Ltd.'s case (supra)**, the question referred is answered against the revenue and in favour of the assessee.

The reference is disposed of accordingly.

**(RAJESH BINDAL)
JUDGE**

**May 07 , 2007
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**(M.M.KUMAR)
JUDGE**